

Appl. No. 09/342,719
Docket No. 7590Q
Amdt. dated July 19, 2007
Reply to Office Action mailed on April 19, 2007
Customer No. 27752

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REMARKS

Claim Status

Before entry of this Amendment, claims 28-32, 34-37, 40-44, 47-48, and 58-60 were pending in the present application. New dependent claims 64-66 are added herein. Thus, claims 28-32, 34-37, 40-44, 47-48, 58-60, and 64-66 will be pending following entry of this Amendment. No additional claims fee is believed to be due.

Claims 28 and 58 are amended herein to provide additional clarity to the structural relationship between the elements recited therein. In particular, claim 28 is amended to recite that the one or more compositions for enhancing removability of fecal waste from skin of the wearer is stored within the diaper. (emphasis added). Claim 58 is amended to recite a method step of storing one or more compositions for enhancing the removability of fecal waste from skin of the wearer within the disposable article. (emphasis added). In addition, new dependent claims 64-66 are added herein. Support for these amendments is found at page 39, lines 19-34; page 41, ll. 10-12; page 43, ll.15-18; and page 42, ll. 26-28 of the specification.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Objection to the Specification and Rejections Under 35 U.S.C. § 112

The objection to the specification and the claim rejections under 35 U.S.C. § 112, first paragraph, specified in the final Office action of April 19, 2007 were overcome as noted in the Advisory Action of July 6, 2007.

Rejection Under 35 U.S.C. § 103(a) Over Hashimoto

Claims 28-32 and 58 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,681,297 issued to Hashimoto et al. (hereinafter "Hashimoto"). In order to establish a prima facie case of obviousness, the prior art reference (or references when combined) must teach or suggest all the claim limitations. (See MPEP § 2143). It is respectfully submitted that the Office action does not establish a prima facie case of obviousness, because Hashimoto does not teach or suggest all the claim limitations recited in independent claims 28 and 58.

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Although Applicants disagree with the characterization of claims 28 and 58 in past Office actions as well as the most recent Advisory Action in light of Hashimoto, claims 28 and 58 are amended herein to further clarify the structural relationship between various elements recited therein. As mentioned above, independent claim 28 is amended herein to recite that the one or more compositions for enhancing removability of fecal waste from skin of the wearer is stored within the diaper, and claim 58 is amended to recite a method step of storing one or more compositions for enhancing the removability of fecal waste from skin of the wearer within the disposable article. (emphasis added).

In contrast to claims 28 and 58, Hashimoto discloses a device for disposing excrement, referred to therein as a "diaper cup," which is connected to external facilities (e.g. vacuum motor housing, water tank, pump, valves) through a plurality of hoses (See Col. 2, ll. 1-12; Col. 4, ll. 17-42; and Fig. 2). The diaper cup is also equipped with a nozzle 108a for washing the pubic region, a nozzle 108b for washing the anus, and snapping hooks that permit exchangeable diapers to be put on and taken off the diaper cup. (See Col. 3, ll. 42-53). The nozzles 108a and 108b of the diaper cup are connected to and work in conjunction with external facilities that include at least a hose, a valve, and a water pump to deliver externally stored washing water to the diaper cup from the water tank. (emphasis added). As such, Hashimoto does not teach or suggest one or more compositions stored within a diaper as recited in claims 28, nor does Hashimoto teach or suggest a method step of storing one or more compositions within a disposable article as recited in claim 58. (emphasis added). Accordingly, Hashimoto does not teach or suggest all the claim limitations recited in claims 28 and 58.

Thus, it is respectfully submitted that, for at least the reasons discussed above, claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto. Claims 29-32 depend from and include all the limitations of claim 28. As such, for at least the same reasons discussed above with reference to claim 28, claims 29-32 are also patentable under 35 U.S.C. § 103(a) over Hashimoto.

Therefore, it is believed that claims 28-32 and 58 are in form for allowance and such indication is respectfully requested.

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Rejection Under 35 U.S.C. § 103(a) Over Hashimoto in view of Jones

Claims 34-37, 40-44, 47, 48, 59, and 60 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hashimoto in view of U.S. Patent No. 5,482,714 issued to Jones et al. (hereinafter "Jones").

It is respectfully submitted that Jones does not correct the deficiencies of Hashimoto discussed above. As such, independent claims 28 and 58 are patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones. Claims 34-37, 40-44, 47, and 48 depend from and include all the limitations of claim 28, and claims 59 and 60 depend from and include all the limitations of claim 58. Thus, for at least the same reasons discussed above with reference to claims 28 and 58, claims 34-37, 40-44, 47, 48, 59, and 60 are also patentable under 35 U.S.C. § 103(a) over Hashimoto in view of Jones.

Therefore, it is believed that claims 34-37, 40-44, 47, 48, 59, and 60 are in form for allowance and such indication is respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

Respectfully submitted,

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